M e m o r a n d u m

To : Honorable Betty T. Yee, Chairwoman
Honorable Jerome E. Horton, Vice Chair
Honorable Michelle Steel, Member, Third District
Honorable John Chiang, State Controller
Ms. Barbara Alby, Acting Member, Second District

Date: November 24, 2010

From : Jeffrey L. McGuire, Deputy Director
Sales and Use Tax Department

Subject : **Sales to Landless Tribes - Regulation 1616**
December 14-15, 2010 Business Taxes Committee Meeting Agenda

The following item is on the Board's December 14-15, 2010 Business Taxes Committee Meeting Agenda. Board Member Yee has requested that a discussion be held and a decision be made on whether there is a need for rulemaking on this issue.

Business Taxes Committee

1. Sales to Landless Tribes

   Approval sought to begin a process with tribal leaders and interested parties to discuss the need for rulemaking to clarify whether a limited exemption from sales and use taxes exists for sales to and purchases by officially recognized landless Indian tribes of tangible personal property for use by their tribal governments in the governance of tribal members or for the acquisition of trust land.

Approved: _____
Kristine Cazadd, Interim Executive Director

Attachment: Informal Issue Paper, "Sales to Landless Tribes"

cc: Mr. Alan LoFaso
Ms. Regina Evans
Mr. Louis Barnett
Ms. Marcy Jo Mandel
Ms. Mai Harvill

Ms. Kristine Cazadd, MIC 73
Mr. Randy Ferris, MIC 83
Mr. Bradley Heller, MIC 82
Ms. Diane Olson, MIC 80
Ms. Susanne Buehler, MIC 92
Mr. Geoffrey Lyle, MIC 50
Ms. Leila Hellmuth, MIC 50
Mr. Bradley Miller, MIC 50

☐ For Information
☒ For Discussion
☐ For Decision Making

BOARD OF EQUALIZATION
INFORMAL ISSUE PAPER

Sales to Landless Tribes

Issue
Whether the Board should initiate a process with tribal leaders and interested parties to discuss proposed amendments to Sales and Use Tax Regulation 1616, *Federal Areas*. If promulgated, the proposed amendments would clarify that, under certain circumstances, a limited exemption from sales and use taxes exists for sales to and purchases by officially recognized[1] landless Indian tribes of tangible personal property for use by their tribal governments in the governance of tribal members or for the acquisition of trust land.

Background
Regulation 1616 was originally adopted in 1945 as a restatement of previous rulings. In 1978, subdivision (d) was added to the regulation to prescribe the application of sales and use tax to the sale and use of tangible personal property on Indian Reservations.[2] In 2002, Regulation 1616, subdivision (d)(3)(A)2 was amended to provide that "Indian retailers selling meals, food or beverages at eating and drinking establishments are not required to collect use tax on the sale of meals, food or beverages that are sold for consumption on an Indian reservation."

More recently, Board staff has been working closely with tribal leaders and interested parties to revise Publication 146, *Sales to American Indians and Sales on Indian Reservations*, to clarify the proper application of sales and use tax to specific transactions involving Indians. This has consisted of holding several meetings with tribal leaders and interested parties to seek input regarding necessary revisions to the publication. Additionally, tribal leaders and interested parties have submitted written comments regarding revisions to the publication they deem necessary. Board staff has incorporated many of the suggestions provided by tribal

[1] For purposes of this issue paper, an Indian tribe is officially recognized if it is recognized by the federal government or the State of California. In addition to federally recognized tribes, California has recognized the Juaneno Band of Mission Indians as the aboriginal tribe of Orange County and recognized the Gabrielinos as the aboriginal tribe of the Los Angeles Basin through the adoption of Assembly Joint Resolution (AJR) 48 and AJR 96, respectively.

[2] In this context, the term "reservation" refers to all land that is considered "Indian country" as defined by 18 U.S.C. § 1151, which provides that "the term 'Indian country' . . . means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same." (See, e.g., Sales and Use Tax Annotation 305.0024.250 (8/26/1996).)

leaders and interested parties into the pending draft of the publication. However, some suggestions have not been incorporated since the suggestions are inconsistent with the current language of Regulation 1616.

One issue that has been repeatedly raised by tribal leaders and interested parties is the different tax consequences associated with the application of tax to sales of tangible personal property to landless tribes and their members within this state, as opposed to sales of tangible personal property to landed Indian tribes and their resident members in Indian country. Regulation 1616, subdivision (d) currently provides that sales tax does not apply to sales of tangible personal property made to Indians that reside on a reservation if the property is delivered to the Indian purchaser and ownership to the property transfers to the Indian purchaser on the reservation. However, sales tax applies if the property is delivered off the reservation or if the ownership to the property transfers to the purchaser off the reservation. Therefore, sales of tangible personal property to landless tribes are generally subject to sales tax since the landless tribes do not have reservations where they can receive delivery of tangible personal property and transfer ownership of the property.

Discussion of the Issue

Although state taxation of Indians is not generally preempted outside Indian country, the United States Supreme Court's holdings suggest that state taxation of Indians outside of Indian country may be preempted under appropriate circumstances. For example, in *Oklahoma Tax Commission v. Sac and Fox Nation* (1993) 508 U.S. 114, 126, Justice O'Connor contemplated whether state taxation may be preempted outside of a tribe's territorial jurisdiction, but the court refrained from resolving the issue because it was not directly before the court. Also, more recent United States Supreme Court cases continue to indicate that states are not "generally" preempted from taxing Indians when they reside outside of Indian Country, but that there are some exceptions to the general rule. (See, e.g., *Wagnon v. Prairie Band Potawatomi Nation* (2005) 546 U.S. 95, 113 [quoting from *Mescalero Apache Tribe v. Jones* (1972) 411 U.S. 145, 148-149].) Therefore, it appears that state taxation of Indians outside Indian country may be preempted by federal law in some circumstances that have not yet been prescribed by the United States Supreme Court.

Furthermore, the United State Supreme Court has said that "there is no rigid rule by which to resolve the question whether a particular state law may be applied to an Indian Reservation or to tribal members." (*White Mountain Apache Tribe v. Bracker* (1980) 448 U.S. 136, 142.) Instead, the Supreme Court has said that the boundaries between state regulatory authority and tribal self-government depend upon "a particularized inquiry into the nature of the state, federal, and tribal interests at stake" in a specific context. (*Id.* at p. 145.) Therefore, Board staff has reviewed the particular facts and circumstances applicable to officially recognized landless California Indian tribes to see whether the imposition of California's sales tax interferes with their interests in any way that might require the tax to be preempted under federal law.

First, Board staff found that all three branches of the federal government have recognized Indian tribes' interests in tribal sovereignty and the attributes of such sovereignty. The United States Supreme Court has long recognized that Indian tribes retain "attributes of sovereignty over both their members and their territory." (*Bracker*, *supra*, 448 U.S. at p. 142.) Moreover, Congress, in 1995, declared that "(1) there is a government-to-government relationship between the United States and each Indian tribe; (2) the United States has a trust responsibility to each tribal government that includes the protection of the sovereignty of each tribal government; (3) Congress, through statutes, treaties, and the exercise of administrative authorities, has recognized the self-determination, self-reliance, and inherent sovereignty of Indian tribes; and (4) Indian tribes possess the inherent authority to establish their own form of government." (25 U.S.C. § 3601.) Additionally, the United States Department of Justice (DOJ) conducts its Indian affairs under a June 1, 1995, policy

memorandum regarding Indian Sovereignty (DOJ Memorandum),[3] in which the Attorney General recognizes similar attributes of tribal sovereignty.

Second, Board staff found that the United States Supreme Court has specifically contemplated whether a tribe's right to self-governance is strong enough to preempt state taxation outside of the tribe's territorial jurisdiction, but the court has not yet resolved the issue in any definitive manner. (*White Mountain Apache Tribe v. Bracker, supra,* 448 U.S. at p. 142.)

Third, Board staff found that there was a major shift in the United States' policies towards Indians that was implemented, at least in part, by the enactment of the Indian Reorganization Act (IRA) of 1934 (Pub.L. No. 73-383 (June 18, 1934) 48 Stat. 984), which represented formal federal recognition of a unique relationship between Indian tribes' sovereignty and land, and the federal government's duty to help restore Indian tribes' economic and governmental self-sufficiency, as sovereigns, through the acquisition of land. Specifically, section 5 of the IRA, which was subsequently codified (with minor amendments) as section 465 of title 25 of the United States Code, currently provides that:

> The Secretary of the Interior is hereby authorized, in his discretion, to acquire through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments whether the allottee be living or deceased, for the purpose of providing land for Indians.
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> [¶] . . . [¶]
>
> Title to any lands or rights acquired pursuant to this Act or the Act of July 28, 1955 (69 Stat. 392), as amended (25 U.S.C. 608 et seq.) shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

Thus, Board staff noted that the Department of the Interior "has had discretionary authority to take title to land, in the name of the United States, in trust for the benefit of Indian tribes" since 1934. (44 S.D. L. Rev. 681, 685.) And, when that discretion is exercised, the Secretary of the Interior accepts a fiduciary duty over the trust land and "the land is freed from federal and state taxes." (*Id.* at p. 682.) In other words, a clear connection exists between tribal self-governance, the acquisition of trust land, and the preemption of state taxation.

In addition, Board staff noted that the Department of the Interior's discretion to acquire land for the benefit of Indian tribes creates a tension between Indian tribes and nontribal governments: "Indian tribes need and are entitled to have lands taken into trust. Non-tribal governments are interested in keeping such lands on their tax rolls." (44 S.D. L. Rev. 681, 682.) Moreover, inherent in this federal discretion is the principle that one of the functions of a landless Indian tribe's government is to petition the Secretary of the Interior to acquire lands in trust for the tribe so that the tribe will have territorial boundaries in which to exercise its sovereignty. As a result, Board staff found that California's taxation of sales to and purchases by landless federally recognized Indian tribes of tangible personal property for use by their tribal governments in applying to the Secretary of the Interior for the acquisition of trust lands could be viewed as interfering with their tribal sovereignty. And, the interference with their tribal sovereignty might support the conclusion that the imposition of sales or use tax on such transactions would be preempted by federal law.

[3] The June 1, 1995, memorandum is available on the DOJ's Web site at http://www.justice.gov/ag/readingroom/sovereignty.htm.

Fourth, Board staff reviewed the present status of California's landless Indian tribes and found that the Bureau of Indian Affairs (BIA) provides the following information with respect to their status:

> While the history of the Federal-Indian relationship in California shares some common characteristics with that of Native people elsewhere in the United States, it is different in many aspects. It includes the unprecedented magnitude of non-native migration into California after the discovery of gold in 1848, nine days before the signing of the Treaty of Guadalupe Hidalgo; the Senate's refusal to ratify the 18 treaties negotiated with California tribes during 1851-52; and the lawless nature of California's settlement after the Treaty of Guadalupe Hidalgo, including State sanctioned efforts to "exterminate" the indigenous population.
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> Under pressure from the California Congressional delegation, the United States Senate not only refused to sign the 18 treaties that had been negotiated, but they also took extraordinary steps to place the treaties under seal. Between the un-ratified treaties and the Land Claims Act of 1851, most California Indians became homeless.
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> Major shifts in federal Indian policy at the national level during the late 19th century exacerbated the Indian problems in California. Passage of the General Allotment Act in 1887 opened part of the limited lands in California to non-Indian settlement. In 1905 the public was finally advised of the 18 un-ratified treaties. Citizens sympathetic to the economic and physical distress of California Indians encouraged Congress to pass legislation to acquire isolated parcels of land for homeless California Indians. Between 1906 and 1910 a series of appropriations were passed that provided funds to purchase small tracts of land in central and northern California for landless Indians of those areas. The land acquisitions resulted in what has been referred to as the Rancheria System in California.
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> In 1934, with the passage of the Indian Reorganization Act (IRA), the reconstituting of tribal governments included the BIA's supervision of elections among California tribes, including most of the Rancheria groups. Although many tribes accepted the provisions of the IRA, few California tribes benefited economically from the IRA because of the continuing inequities in funding of Federal Indian programs.
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> Beginning in 1944, forces within the BIA began to propose partial liquidation of the Rancheria system. Even the limited efforts to address the needs of California Indians at the turn of the century and again through passage of the IRA were halted by the federal government when it adopted the policy of termination. California became a primary target of this policy when Congress slated forty-one (41), California Rancherias for termination pursuant to the Rancheria Act of 1958.
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> During the past quarter century, judicial decisions and settlements have restored 27 of the 38 Rancherias that were terminated under the original Rancheria Act. Additional tribes have since then been restored as a result of Acts of Congress.
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> This brief history only begins to explain why the Pacific Regional Office is unique. California tribes today continue to develop their tribal infrastructure as a result of not having the same opportunities that have been provided to other native groups throughout the Country. California has a large number of aboriginal native populations who are not currently recognized by the United States which presents [its] own list of problems.[4]

[4] Text available at http://www.bia.gov/WhoWeAre/RegionalOffices/Pacific/WeAre/index.htm.

Therefore, Board staff concluded that these unique circumstances, recognized by the BIA, indicated that the federal courts could decide that federal law must preempt California's taxation of landless Indian tribes in a manner that may not be applicable in other states where these unique circumstances are not present in order to prohibit California from directly interfering with the self-governance of landless officially recognized Indian tribes in California.

However, Board staff believes that such a federal preemption of California's taxation of officially recognized landless Indian tribes would be limited to preempting the taxation of tangible personal property that is sold to or purchased by landless Indian tribes for use by their tribal governments in the governance of tribal members or for the acquisition of trust land. This is because the taxation of these types of transactions, and only these types of transactions, might directly interfere with a tribe's sovereignty. In other words, other than the potential limited exemption for landless tribes discussed above, staff has found no persuasive authority that could establish a general exemption for landless tribes and their members.

Furthermore, if the Board were to recognize such limited preemption by amending Regulation 1616, then Board staff believes it is necessary to limit preemption to taxes imposed on property delivered to an officially recognized landless Indian tribe at the principal place where the landless tribe's government meets to conduct tribal business so that there is some way for retailers and the State Board of Equalization to verify exempt transactions by landless tribes. Board staff also believes that a "principal place" test is sufficiently flexible because we recognize that landless tribes may not own any real estate where their tribal governments can meet to conduct tribal business, and they may occasionally meet at more than one place during a given period.

Alternatives

Do not initiate a process with tribal leaders and interested parties.

Recommendation

As a result of the above discussion, Board staff believes it would be appropriate to amend Sales and Use Tax Regulation 1616, subdivision (d) to clarify that a limited exemption from sales and use taxes exists for sales to and purchases by officially recognized landless Indian tribes of tangible personal property for use by their tribal governments in the governance of tribal members or for the acquisition of trust land. Board staff believes that such a limited exemption would appropriately acknowledge landless Indian tribes' sovereignty while continuing to ensure the proper administration of California's sales and use taxes. Moreover, Board staff recommends that a process with tribal leaders and interested parties be initiated to discuss the proposed exemption clarification and anticipates that proposed amendments, similar in content to the draft amendments to Regulation 1616 that are attached as Exhibit 1, will ultimately be recommended to the Board for formal adoption at the conclusion of the process.

In addition, if the Board adopts the proposed amendment to Regulation 1616 in the future, staff anticipates working with officially recognized landless Indian tribes to establish a Board-approved list of their principal places of tribal business. This list would be posted on the Board's American Indian Tribal Issues Web page to assist retailers in determining whether they can accept a proffered exemption certificate from a landless tribe in good faith.

Critical Time Frames

None.

Preparation and Reviews

Prepared by the Tax Policy Division, Sales and Use Tax Department and the Taxes and Fees Division, Legal Department.

Current as of: November 22, 2010

Regulation 1616. FEDERAL AREAS.

Reference: Sections 6017, 6021, Revenue and Taxation Code.
Public Law No. 817-76th Congress (Buck Act).
Vending machine sales generally, see Regulation 1574
Items Dispensed for 10¢ or less, see Regulation 1574
Additional reference: Section 6352, Revenue and Taxation Code.

(a) IN GENERAL. Tax applies to the sale or use of tangible personal property upon Federal areas to the same extent that it applies with respect to sale or use elsewhere within this state.

(b) ALCOHOLIC BEVERAGES. Manufacturers, wholesalers and rectifiers who deliver or cause to be delivered alcoholic beverages to persons on Federal reservations, shall pay the state retailer sales tax on the selling price of such alcoholic beverages so delivered, except when such deliveries are made to persons or organizations which are instrumentalities of the Federal Government or persons or organizations which purchase for resale.

Sales to officers' and non-commissioned officers' clubs and messes may be made without sales tax when the purchasing organizations have been authorized, under appropriate regulations and control instructions, duly prescribed and issued, to sell alcoholic beverages to authorized purchasers.[1]

(c) SALES THROUGH VENDING MACHINES. Sales through vending machines located on Army, Navy, or Air Force installations are taxable unless the sales are made by operators who lease the machines to exchanges of the Army, Air Force, Navy, or Marine Corps, or other instrumentalities of the United States, including Post Restaurants and Navy Civilian Cafeteria Associations, which acquire title to and sell the merchandise through the machines to authorized purchasers.

For the exemption to apply, the contracts between the operators and the United States instrumentalities and the conduct of the parties must make it clear that the instrumentalities acquire title to the merchandise and sell it through machines leased from the operators to authorized purchasers.

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[1]The following is a summary of the pertinent regulations which have been issued:

(a) GENERAL. Air Force Regulation 34-57, issued under date of February 9, 1968, Army Regulation 210-65, issued under date of May 4, 1966, and Navy General Order No. 15, issued under date of May 5, 1965, authorize the sale and possession of alcoholic beverages at bases and installations subject to certain enumerated restrictions.

(b) AIR FORCE. Air Force Regulation 34-57, Paragraph 5, permits commissioned officers' and noncommissioned officers' open messes, subject to regulations established by commanders of major air commands to sell alcoholic beverages to authorized purchasers at bars and cocktail lounges, and provides that commanders will issue detailed control instructions. Paragraph 8 and 9 require commanders of major air commands to issue regulations relative to package liquor sales and to procurement of alcoholic beverages, respectively.

(c) ARMY. Army Regulation 210-65, Paragraph 9, provides that major commanders are authorized to permit at installations or activities within their respective commands the dispensing of alcoholic beverages by the drink or bottle. Paragraph 11 of AR 210-65 provides that when authorized by major commanders as prescribed in Paragraph 9, AR 210-65, officers' and non-commissioned officers' open messes may, subject to regulations prescribed by the commanding officer of the installation or activity concerned, dispense alcoholic beverages by the drink, and operate a package store.

(d) NAVY. Navy General Order No. 15 provides that commanding officers may permit, subject to detailed alcoholic beverage control instructions, the sales of packaged alcoholic beverages by officers' and noncommissioned officers' clubs and messes and the sale and consumption of alcoholic beverages by the drink in such clubs and messes.

(d) INDIAN RESERVATIONS.

(1) IN GENERAL. Except as provided in this regulation, tax applies to the sale or use of tangible personal property upon Indian reservations to the same extent that it applies with respect to sale or use elsewhere within this state.

(2) DEFINITIONS. For purposes of this regulation "Indian" means any person of Indian descent who is entitled to receive services as an Indian from the United States Department of the Interior. Indian organizations are entitled to the same exemption as are Indians. "Indian organization" includes Indian tribes and tribal organizations and also includes partnerships all of whose members are Indians. The term includes corporations organized under tribal authority and wholly owned by Indians. The term excludes other corporations, including other corporations wholly owned by Indians. "Reservation" includes reservations, rancherias, and any land held by the United States in trust for any Indian tribe or individual Indian.

(3) SALES BY ON-RESERVATION RETAILERS.

(A) Sales by Indians.

1. Sales by Indians to Indians who reside on a reservation. Sales tax does not apply to sales of tangible personal property made to Indians by Indian retailers negotiated at places of business located on Indian reservations if the purchaser resides on a reservation and if the property is delivered to the purchaser on a reservation. The purchaser is required to pay use tax only if, within the first 12 months following delivery, the property is used off a reservation more than it is used on a reservation.

2. Sales by Indians to non-Indians and Indians who do not reside on a reservation. Sales tax does not apply to sales of tangible personal property by Indian retailers made to non-Indians and Indians who do not reside on a reservation when the sales are negotiated at places of business located on Indian reservations if the property is delivered to the purchaser on the reservation. Except as exempted below, Indian retailers are required to collect use tax from such purchasers and must register with the Board for that purpose.

Indian retailers selling meals, food or beverages at eating and drinking establishments are not required to collect use tax on the sale of meals, food or beverages that are sold for consumption on an Indian reservation.

(B) Sales by non-Indians.

1. Sales by non-Indians to Indians who reside on a reservation. Sales tax does not apply to sales of tangible personal property made to Indians by retailers when the sales are negotiated at places of business located on Indian reservations if the property is delivered to the purchaser on a reservation. The sale is exempt whether the retailer is a federally licensed Indian trader or is not so licensed. The purchaser is required to pay use tax only if, within the first 12 months following delivery, the property is used off a reservation more than it is used on a reservation.

2. Sales by non-Indians to non-Indians and Indians who do not reside on a reservation. Either sales tax or use tax applies to sales of tangible personal property by non-Indian retailers to non-Indians and Indians who do not reside on a reservation.

(C) Resale Certificates. Persons making sales for resale of tangible personal property to retailers conducting business on an Indian reservation should obtain resale certificates from their purchasers. If the purchaser does not have a permit and all the purchaser's sales are exempt under paragraph (d)(3)(A) of this regulation, the purchaser should make an appropriate notation to that effect on the certificate in lieu of a seller's permit number (see Regulation 1668, "Resale Certificates").

(4) SALES BY OFF-RESERVATION RETAILERS.

(A) Sales Tax - In General. Sales tax does not apply to sales of tangible personal property made to Indians negotiated at places of business located outside Indian reservations if the property is delivered to the purchaser and ownership to the property transfers to the purchaser on the reservation. Generally ownership to property transfers upon delivery if delivery is made by facilities of the retailer and ownership transfers upon shipment if delivery is made by mail or carrier. Except as otherwise expressly provided herein, the sales tax applies if the property is delivered off the reservation or if the ownership to the property transfers to the purchaser off the reservation.

(B) Sales Tax - Permanent Improvements - In General. Sales tax does not apply to a sale to an Indian of tangible personal property (including a trailer coach) to be permanently attached by the purchaser upon the reservation to realty as an improvement if the property is delivered to the Indian on the reservation. A trailer coach will be regarded as having been permanently attached if it is not registered with the Department of Motor Vehicles. Sellers of property to be permanently attached to realty as an improvement should secure exemption certificates from their purchasers (see Regulation 1667, "Exemption Certificates").

(C) Sales Tax - Permanent Improvements - Construction Contractors.

1. Indian contractors. Sales tax does not apply to sales of materials to Indian contractors if the property is delivered to the contractor on a reservation. Sales tax does not apply to sales of fixtures furnished and installed by Indian contractors on Indian reservations. The term "materials" and "fixtures" as used in this paragraph and the following paragraph are as defined in Regulation 1521 "Construction Contractors."

2. Non-Indian contractors. Sales tax applies to sales of materials to non-Indian contractors notwithstanding the delivery of the materials on the reservation and the permanent attachment of the materials to realty. Sales tax does not apply to sales of fixtures furnished and installed by non-Indian contractors on Indian reservations.

(D) Use Tax - In General. Except as provided in paragraphs (d)(4)(E) and (d)(4)(F) of this regulation, use tax applies to the use in this state by an Indian purchaser of tangible personal property purchased from an off-reservation retailer for use in this state.

(E) Use Tax - Exemption. Use tax does not apply to the use of tangible personal property (including vehicles, vessels, and aircraft) purchased by an Indian from an off-reservation retailer and delivered to the purchaser on a reservation unless, within the first 12 months following delivery, the property is used off a reservation more than it is used on a reservation.

(F) Leases. Neither sales nor use tax applies to leases otherwise taxable as continuing sales or continuing purchases as respects any period of time the leased property is situated on an Indian reservation when the lease is to an Indian who resides upon the reservation. In the absence of evidence to the contrary, it shall be assumed that the use of the property by the lessee occurs on the reservation if the lessor delivers the property to the lessee on the reservation. Tax applies to the use of leased vehicles registered with the Department of Motor Vehicles to the extent that the vehicles are used off the reservation.

(G) Officially Recognized Landless Indian Tribes. Sales tax does not apply to sales of tangible personal property to a landless Indian tribe that is officially recognized by either the United States or the State of California when the property is purchased for use by the tribal government in the governance of tribal members or for the acquisition of trust land, and the property is delivered to the tribe and ownership of the property transfers to the tribe at the principal place where the landless tribe's government meets to conduct tribal business. Use tax does not apply to the use of tangible personal property purchased by a landless Indian tribe from a retailer and delivered to the tribe at the principal place where the landless tribe's government meets to conduct tribal business unless, within the first 12 months following delivery, the property is used for purposes other than the landless tribe's governance of its tribal members or acquisition of trust land more than it is used for the landless tribe's governance of its tribal members or acquisition of trust land.